

SECOND REGULAR SESSION

HOUSE BILL NO. 2063

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DENISON (Sponsor), POLLOCK, WELLS, FRANZ,
McDONALD AND PHILLIPS (Co-sponsors).

6265H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.304, 577.041, 577.600, and 577.606, RSMo, and to enact in lieu thereof four new sections relating to ignition interlock devices, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 302.304, 577.041, 577.600, and 577.606, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 302.304, 577.041, 577.600 and
3 577.606, to read as follows:

302.304. 1. The director shall notify by ordinary mail any operator of the point value
2 charged against the operator's record when the record shows four or more points have been
3 accumulated in a twelve-month period.

4 2. In an action to suspend or revoke a license or driving privilege under this section
5 points shall be accumulated on the date of conviction. No case file of any conviction for a
6 driving violation for which points may be assessed pursuant to section 302.302 may be closed
7 until such time as a copy of the record of such conviction is forwarded to the department of
8 revenue.

9 3. The director shall suspend the license and driving privileges of any person whose
10 driving record shows the driver has accumulated eight points in eighteen months, **unless the**
11 **person accumulated the eight points under the provisions of subdivision (8) of subsection**
12 **1 of section 302.302 or subdivision (10) of subsection 1 of section 302.302.**

13 4. The license and driving privilege of any person whose license and driving privilege
14 have been suspended under the provisions of sections 302.010 to 302.540 except those persons
15 whose license and driving privilege have been suspended under the provisions of subdivision (8)

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 of subsection 1 of section 302.302 or has accumulated sufficient points together with a
17 conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of
18 financial responsibility with the department of revenue, in accordance with chapter 303, and is
19 otherwise eligible, shall be reinstated as follows:

20 (1) In the case of an initial suspension, thirty days after the effective date of the
21 suspension;

22 (2) In the case of a second suspension, sixty days after the effective date of the
23 suspension;

24 (3) In the case of the third and subsequent suspensions, ninety days after the effective
25 date of the suspension. Unless proof of financial responsibility is filed with the department of
26 revenue, a suspension shall continue in effect for two years from its effective date.

27 5. The period of suspension of the driver's license and driving privilege of any person
28 under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has
29 accumulated sufficient points together with a conviction under subdivision (10) of subsection
30 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving
31 privilege as defined in section 302.010, **unless the person agrees to equip his or her vehicle**
32 **with a functioning, certified ignition interlock device, in which case, there shall be no**
33 **period of suspension and the person shall instead have a ninety-day period of restricted**
34 **driving privilege.** Upon completion of such period of restricted driving privilege, upon
35 compliance with other requirements of law and upon filing of proof of financial responsibility
36 with the department of revenue, in accordance with chapter 303, the license and driving privilege
37 shall be reinstated.

38 6. If the person fails to maintain proof of financial responsibility in accordance with
39 chapter 303, the person's driving privilege and license shall be resuspended.

40 7. The director shall revoke the license and driving privilege of any person when the
41 person's driving record shows such person has accumulated twelve points in twelve months or
42 eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation
43 period of any person whose license and driving privilege have been revoked under the provisions
44 of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the
45 department of revenue in accordance with chapter 303 and is otherwise eligible, shall be
46 terminated by a notice from the director of revenue after one year from the effective date of the
47 revocation. Unless proof of financial responsibility is filed with the department of revenue,
48 except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for
49 a period of two years from its effective date. If the person fails to maintain proof of financial
50 responsibility in accordance with chapter 303, the person's license and driving privilege shall be
51 rerevoked. Any person whose license and driving privilege have been revoked under the

52 provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of the
53 revocation from the director, pass the complete driver examination and apply for a new license
54 before again operating a motor vehicle upon the highways of this state.

55 8. If, prior to conviction for an offense that would require suspension or revocation of
56 a person's license under the provisions of this section, the person's total points accumulated are
57 reduced, pursuant to the provisions of section 302.306, below the number of points required for
58 suspension or revocation pursuant to the provisions of this section, then the person's license shall
59 not be suspended or revoked until the necessary points are again obtained and accumulated.

60 9. If any person shall neglect or refuse to surrender the person's license, as provided
61 herein, the director shall direct the state highway patrol or any peace or police officer to secure
62 possession thereof and return it to the director.

63 10. Upon the issuance of a reinstatement or termination notice after a suspension or
64 revocation of any person's license and driving privilege under the provisions of sections 302.010
65 to 302.540, the accumulated point value shall be reduced to four points, except that the points
66 of any person serving as a member of the armed forces of the United States outside the limits of
67 the United States during a period of suspension or revocation shall be reduced to zero upon the
68 date of the reinstatement or termination of notice. It shall be the responsibility of such member
69 of the armed forces to submit copies of official orders to the director of revenue to substantiate
70 such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary
71 notwithstanding, the effective date of the four points remaining on the record upon reinstatement
72 or termination shall be the date of the reinstatement or termination notice.

73 11. No credit toward reduction of points shall be given during periods of suspension or
74 revocation or any period of driving under a limited driving privilege granted by a court or the
75 director of revenue.

76 12. Any person or nonresident whose license or privilege to operate a motor vehicle in
77 this state has been suspended or revoked under this or any other law shall, before having the
78 license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee
79 of twenty dollars which shall be in addition to all other fees provided by law.

80 13. Notwithstanding any other provision of law to the contrary, if after two years from
81 the effective date of any suspension or revocation issued under this chapter, the person or
82 nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such
83 license or privilege to operate a motor vehicle in this state.

84 14. No person who has had a license to operate a motor vehicle suspended or revoked
85 as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of
86 subsection 1 of section 302.302 shall have that license reinstated until such person has
87 participated in and successfully completed a substance abuse traffic offender program defined

88 in section 302.010, or a program determined to be comparable by the department of mental
89 health. Assignment recommendations, based upon the needs assessment as described in
90 subdivision (22) of section 302.010, shall be delivered in writing to the person with written
91 notice that the person is entitled to have such assignment recommendations reviewed by the court
92 if the person objects to the recommendations. The person may file a motion in the associate
93 division of the circuit court of the county in which such assignment was given, on a printed form
94 provided by the state courts administrator, to have the court hear and determine such motion
95 pursuant to the provisions of chapter 517. The motion shall name the person or entity making
96 the needs assessment as the respondent and a copy of the motion shall be served upon the
97 respondent in any manner allowed by law. Upon hearing the motion, the court may modify or
98 waive any assignment recommendation that the court determines to be unwarranted based upon
99 a review of the needs assessment, the person's driving record, the circumstances surrounding the
100 offense, and the likelihood of the person committing a like offense in the future, except that the
101 court may modify but may not waive the assignment to an education or rehabilitation program
102 of a person determined to be a prior or persistent offender as defined in section 577.023 or of a
103 person determined to have operated a motor vehicle with fifteen-hundredths of one percent or
104 more by weight in such person's blood. Compliance with the court determination of the motion
105 shall satisfy the provisions of this section for the purpose of reinstating such person's license to
106 operate a motor vehicle. The respondent's personal appearance at any hearing conducted
107 pursuant to this subsection shall not be necessary unless directed by the court.

108 15. The fees for the program authorized in subsection 14 of this section, or a portion
109 thereof to be determined by the department of mental health, shall be paid by the person enrolled
110 in the program. Any person who is enrolled in the program shall pay, in addition to any fee
111 charged for the program, a supplemental fee in an amount to be determined by the department
112 of mental health for the purposes of funding the substance abuse traffic offender program defined
113 in section 302.010 and section 577.001 or a program determined to be comparable by the
114 department of mental health. The administrator of the program shall remit to the division of
115 alcohol and drug abuse of the department of mental health on or before the fifteenth day of each
116 month the supplemental fee for all persons enrolled in the program, less two percent for
117 administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees
118 due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not
119 to exceed the annual rate established pursuant to the provisions of section 32.065, plus three
120 percentage points. The supplemental fees and any interest received by the department of mental
121 health pursuant to this section shall be deposited in the mental health earnings fund which is
122 created in section 630.053.

16. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

17. Any person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (9) of subsection 1 of section 302.302 shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement of the license. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director, the license shall be resuspended or revoked and the person shall be guilty of a class A misdemeanor.

577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024, 565.060, or 565.082, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a certified report under penalties of perjury for making a false statement to a public official. The report shall be forwarded to the director of revenue and shall include the following:

- 20 (1) That the officer has:
- 21 (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle
- 22 while in an intoxicated or drugged condition; or
- 23 (b) Reasonable grounds to believe that the person stopped, being under the age of
- 24 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths
- 25 of one percent or more by weight; or
- 26 (c) Reasonable grounds to believe that the person stopped, being under the age of
- 27 twenty-one years, was committing a violation of the traffic laws of the state, or political
- 28 subdivision of the state, and such officer has reasonable grounds to believe, after making such
- 29 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;
- 30 (2) That the person refused to submit to a chemical test;
- 31 (3) Whether the officer secured the license to operate a motor vehicle of the person;
- 32 (4) Whether the officer issued a fifteen-day temporary permit;
- 33 (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice
- 34 of the right to file a petition for review, which notices and permit may be combined in one
- 35 document; and
- 36 (6) Any license to operate a motor vehicle which the officer has taken into possession.
- 37 3. Upon receipt of the officer's report, the director shall revoke the license of the person
- 38 refusing to take the test for a period of one year; or if the person is a nonresident, such person's
- 39 operating permit or privilege shall be revoked for one year; or if the person is a resident without
- 40 a license or permit to operate a motor vehicle in this state, an order shall be issued denying the
- 41 person the issuance of a license or permit for a period of one year.
- 42 4. If a person's license has been revoked because of the person's refusal to submit to a
- 43 chemical test, such person may petition for a hearing before a circuit division or associate
- 44 division of the court in the county in which the arrest or stop occurred. The person may request
- 45 such court to issue an order staying the revocation until such time as the petition for review can
- 46 be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form
- 47 prescribed by the director of revenue and shall send a copy of such order to the director. Such
- 48 order shall serve as proof of the privilege to operate a motor vehicle in this state and the director
- 49 shall maintain possession of the person's license to operate a motor vehicle until termination of
- 50 any revocation pursuant to this section. Upon the person's request the clerk of the court shall
- 51 notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on
- 52 behalf of the director of revenue. At the hearing the court shall determine only:
- 53 (1) Whether or not the person was arrested or stopped;
- 54 (2) Whether or not the officer had:

55 (a) Reasonable grounds to believe that the person was driving a motor vehicle while in
56 an intoxicated or drugged condition; or

57 (b) Reasonable grounds to believe that the person stopped, being under the age of
58 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths
59 of one percent or more by weight; or

60 (c) Reasonable grounds to believe that the person stopped, being under the age of
61 twenty-one years, was committing a violation of the traffic laws of the state, or political
62 subdivision of the state, and such officer had reasonable grounds to believe, after making such
63 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

64 (3) Whether or not the person refused to submit to the test.

65 5. If the court determines any issue not to be in the affirmative, the court shall order the
66 director to reinstate the license or permit to drive.

67 6. Requests for review as provided in this section shall go to the head of the docket of
68 the court wherein filed.

69 7. No person who has had a license to operate a motor vehicle suspended or revoked
70 pursuant to the provisions of this section shall have that license reinstated until such person has
71 participated in and successfully completed a substance abuse traffic offender program defined
72 in section 577.001, or a program determined to be comparable by the department of mental
73 health or the court. Assignment recommendations, based upon the needs assessment as
74 described in subdivision (23) of section 302.010, shall be delivered in writing to the person with
75 written notice that the person is entitled to have such assignment recommendations reviewed by
76 the court if the person objects to the recommendations. The person may file a motion in the
77 associate division of the circuit court of the county in which such assignment was given, on a
78 printed form provided by the state courts administrator, to have the court hear and determine
79 such motion pursuant to the provisions of chapter 517. The motion shall name the person or
80 entity making the needs assessment as the respondent and a copy of the motion shall be served
81 upon the respondent in any manner allowed by law. Upon hearing the motion, the court may
82 modify or waive any assignment recommendation that the court determines to be unwarranted
83 based upon a review of the needs assessment, the person's driving record, the circumstances
84 surrounding the offense, and the likelihood of the person committing a like offense in the future,
85 except that the court may modify but may not waive the assignment to an education or
86 rehabilitation program of a person determined to be a prior or persistent offender as defined in
87 section 577.023, or of a person determined to have operated a motor vehicle with
88 fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with
89 the court determination of the motion shall satisfy the provisions of this section for the purpose
90 of reinstating such person's license to operate a motor vehicle. The respondent's personal

91 appearance at any hearing conducted pursuant to this subsection shall not be necessary unless
92 directed by the court.

93 8. The fees for the substance abuse traffic offender program, or a portion thereof to be
94 determined by the division of alcohol and drug abuse of the department of mental health, shall
95 be paid by the person enrolled in the program. Any person who is enrolled in the program shall
96 pay, in addition to any fee charged for the program, a supplemental fee to be determined by the
97 department of mental health for the purposes of funding the substance abuse traffic offender
98 program defined in section 302.010 and section 577.001. The administrator of the program shall
99 remit to the division of alcohol and drug abuse of the department of mental health on or before
100 the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less
101 two percent for administrative costs. Interest shall be charged on any unpaid balance of the
102 supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall
103 accrue at a rate not to exceed the annual rates established pursuant to the provisions of section
104 32.065, plus three percentage points. The supplemental fees and any interest received by the
105 department of mental health pursuant to this section shall be deposited in the mental health
106 earnings fund which is created in section 630.053.

107 9. Any administrator who fails to remit to the division of alcohol and drug abuse of the
108 department of mental health the supplemental fees and interest for all persons enrolled in the
109 program pursuant to this section shall be subject to a penalty equal to the amount of interest
110 accrued on the supplemental fees due the division pursuant to this section. If the supplemental
111 fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the
112 department of mental health within six months of the due date, the attorney general of the state
113 of Missouri shall initiate appropriate action of the collection of said fees and interest accrued.
114 The court shall assess attorney fees and court costs against any delinquent program.

115 10. Any person who has had a license to operate a motor vehicle revoked [more than
116 once] for violation of the provisions of this section shall be required to file proof with the
117 director of revenue that any motor vehicle operated by the person is equipped with a functioning,
118 certified ignition interlock device as a required condition of license reinstatement. Such ignition
119 interlock device shall further be required to be maintained on all motor vehicles operated by the
120 person for a period of not less than [six months] **one year** immediately following the date of
121 reinstatement. If the person fails to maintain such proof with the director as required by this
122 section, the license shall be rerevoked and the person shall be guilty of a class A misdemeanor.

123 11. The revocation period of any person whose license and driving privilege has been
124 revoked under this section and who has filed proof of financial responsibility with the
125 department of revenue in accordance with chapter 303 and is otherwise eligible, shall be
126 terminated by a notice from the director of revenue after one year from the effective date of the

127 revocation. Unless proof of financial responsibility is filed with the department of revenue, the
128 revocation shall remain in effect for a period of two years from its effective date. If the person
129 fails to maintain proof of financial responsibility in accordance with chapter 303, the person's
130 license and driving privilege shall be rerevoked and the person shall be guilty of a class A
131 misdemeanor.

577.600. 1. In addition to any other provisions of law, a court [may] **shall** require that
2 any person who is found guilty of or pleads guilty to [a first] **an** intoxication-related traffic
3 offense, as defined in section 577.023, [and a court shall require that any person who is found
4 guilty of or pleads guilty to a second or subsequent intoxication-related traffic offense, as defined
5 in section 577.023,] shall not operate any motor vehicle unless that vehicle is equipped with a
6 functioning, certified ignition interlock device for a period of:

7 **(1) Not less than [six months] ninety days from the date of reinstatement of the person's**
8 **driver's license if the person is found guilty of or pleads guilty to a first intoxication-related**
9 **traffic offense;**

10 **(2) Not less than one year from the date of reinstatement of the person's driver's**
11 **license if the [**. In addition, any court authorized to grant a limited driving privilege under
12 section 302.309 to any] person [who] is found guilty of or pleads guilty to a second [or
13 subsequent] intoxication-related traffic offense [shall require the use of an ignition interlock
14 device on all vehicles operated by the person as a required condition of the limited driving
15 privilege. These requirements shall be in addition to any other provisions of this chapter or
16 chapter 302 requiring installation and maintenance of an ignition interlock device.] ;

17 **(3) Not less than five years from the date of reinstatement of the person's driver's**
18 **license if the person is found guilty of or pleads guilty to a third or fourth intoxication-**
19 **related traffic offense; and**

20 **(4) The duration of the person's life if the person is found guilty of or pleads guilty**
21 **to a fifth intoxication-related traffic offense. However, the person is eligible to have his or**
22 **her restriction reviewed by the department of revenue after operating a motor vehicle**
23 **equipped with a functioning, certified ignition interlock device for five years. If the**
24 **department has determined that the person has met all compliance requirements and**
25 **should have his or her regular driver's license reinstated, the department shall reissue the**
26 **regular driver's license.** Any person required to use an ignition interlock device, either under
27 the provisions of this chapter or chapter 302, shall comply with such requirement subject to the
28 penalties provided by this section.

29 2. Any person required to use an ignition interlock device pursuant to subdivisions
30 **(3) and (4) of subsection 1 of this section shall install an ignition interlock device that has**
31 **photo identification technology and global positioning system features.**

32 **3.** No person shall knowingly rent, lease or lend a motor vehicle to a person known to
33 have had that person's driving privilege restricted as provided in subsection 1 of this section,
34 unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person
35 whose driving privilege is restricted as provided in subsection 1 of this section shall notify any
36 other person who rents, leases or loans a motor vehicle to that person of the driving restriction
37 imposed pursuant to this section.

38 **[3.] 4.** Any person convicted of a violation of this section shall be guilty of a class A
39 misdemeanor.

 577.606. **1.** The court shall send the order to the department of revenue in all cases
2 where the driving privilege of a person is restricted pursuant to section 577.600. The order shall
3 contain the requirement for, and the period of, the use of a certified ignition interlock device
4 under sections 577.600 to 577.614. The records of the department of revenue shall contain a
5 record reflecting mandatory use of the device.

6 **2.** In addition to the requirements of subsection 1 of this section, the department
7 of revenue shall also issue to any person required to use an ignition interlock device, a
8 special driver's license signifying that the driver must not operate a vehicle that does not
9 contain an ignition interlock device. Costs associated with the issuance of the special
10 license may be assessed to the individual, not to exceed fifty dollars, as well as any costs
11 associated with the reissuance of the person's regular driver's license, as determined by the
12 department, not to exceed an additional fifty dollars.

13 **3.** Any person required to receive a special license, as described in subsection 2 of
14 this section, shall be required to have such license for the duration of the restricted driving
15 period, and until such person maintains a period of ninety days without the ignition
16 interlock device registering a level of alcohol above the level set on the device by the
17 department of revenue, and with no reports of confirmed tampering or circumventions.
18 If the monthly monitoring reports show that the person has any confirmed alcohol
19 readings or has tampered with the device, the restriction shall be extended for a period of
20 ninety days until there is a continuous, violation-free, ninety day period in which case the
21 person's regular driver's license shall be reissued.

✓